

IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No 5474 of 1986

For Approval and Signature:

Hon'ble MR.JUSTICE S.K.KESHOTE

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1. Whether Reporters of Local Papers may be allowed to see the judgements?
2. To be referred to the Reporter or not?
3. Whether Their Lordships wish to see the fair copy of the judgement?
4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder?
5. Whether it is to be circulated to the Civil Judge?

KUVARBEN WD/O RAJABHAI

DOSABHAI

Versus

STATE OF GUJARAT

Appearance:

MR AD MITHANI for Petitioners

MR KT DAVE, A.G.P. for Respondent No. 1, 2

CORAM : MR.JUSTICE S.K.KESHOTE

Date of decision: 16/03/98

ORAL JUDGEMENT

1. Challenge has been made by the petitioners to the order of the Gujarat Revenue Tribunal dated 21st April, 1986 passed in Revision Application No. TEN. B.A. 438/84 under which the order of the Prant Officer, Viramgam dated 5-10-1982 under which the permission has been granted to the petitioner No.1 for sale of land Blocks No.710 and 664 to the petitioner No.2 has been quashed and set aside.

2. The petitioner No.1 has applied for permission for the sale of the land, Blocks No.710 and 664 to the petitioner No.2 in the office of the Prant Officer, Viramgam Prant, Ahmedabad. In column No.6 of the application, the petitioner No.1 has given out the reason for the sale of the land by her to the petitioner No.2. The reason has been given that she wanted to have money for discharging her liabilities of private debts. The Prant Officer, Viramgam, referred the matter to the Mamlatdar. The Mamlatdar submitted his report to the Prant Officer and on the basis of the said report, the Prant Officer under its order dated 5-10-1982 granted the permission to the petitioner No.1 for sale of her land to petitioner No.2. That order of the Prant Officer, Viramgam has been challenged by the respondent-State before the Tribunal and the Tribunal has found illegality in the order of the Prant Officer, Viramgam on the ground that the order has been passed contrary to the provisions of Rule-25(C) of the Land Revenue Rules. The Tribunal has come to the conclusion that under Rule-25(C) of the Land Revenue Rules, permission for sale of land could not have been granted for discharging of the private debts. Hence this special civil application.

3. The respondents have not filed any reply to the special civil application. However, the learned counsel for the State has made oral submissions.

4. The learned counsel for the petitioner contended that the Tribunal has completely misconstrued and misread Rule-25(C) of the Land Revenue Rules. He made a reference to clause (i) of clause (f) of Rule (1) of Rule-25(C) of the Land Revenue Rules and contended that, that clause is sufficiently wide enough which even permits the sale of the land for arranging adequate finance to discharge liability of private debts.

5. The learned counsel for the State very fairly submitted that the case of the petitioner certainly falls under the aforesaid clause and the approach of the Tribunal seems to be not correct.

6. In view of the aforesaid statement made by the learned Government advocate, it is not necessary to go in depth in the matter. However, otherwise also, clause (f)(i) of Rule(1) of Rule 25(C) of the relevant rules may be helpful to the petitioners. But for the reasons stated above, I do not consider it to be necessary to go in detail in the matter.

7. In the result, this special civil application succeeds and the same is allowed. The order of the Gujarat Revenue Tribunal passed in Revision Application No. TEN.B.A. 438/84 dated 21-4-1986 is quashed and set aside. Rule is made absolute.

zgs/-